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Massachusetts Claim.

FOR THE OBSERVER.

MASSACHUSETTS CLAIM

As to its Constitutional Relations.

Mr. Editor,—It has been usual to consider the Massachusetts Claim, principally, in reference to the merits of the Militia who entered into the service of the Commonwealth for the defence of the Union during the late war. While it is true, and, as I believe, universally conceded that those who, on that occasion, filled the ranks of our volunteer and detached corps, were patriotic and efficient, necessary and beneficial agents, it must be agreed, that, if the service rendered was, exclusively, State and not, therefore, national, Congress cannot provide a compensation. The federal government, not acting under discretionary but defined powers, must require a consideration, of a public character, for its disbursements, must hold sacred the common treasure, and is not permitted, from motives of benevolence, to bestow alms on Massachusetts, or to distribute charity to any individual or corporation. Justice is the principle, animating and regulating our institutions, and, in the simple concern of an account, it prescribes nothing more than the payment of our debts. The sacred duty to do that is connected, not only with the rules which spring from compact, but with the original and eternal obligations of honesty, of good faith, and of morality.

My purpose, in the following remarks, will be to consider "The Claim" only so far as the Constitution of the United States is concerned, and although aware of the dangers which I intend to confront in the difficult path I shall follow, and seeing all the delicacy of the subject, I shall, nevertheless, make the attempt. In this case it would be dishonorable either to rest, or to choose the broad and smooth ways to which an unchastened feeling or a selfish policy direct. With the intention of expressing my sentiments and with the conviction that you will perceive that no one could choose this as the subject of such comment as is now offered, without being more interested in truth than favor, I will venture to solicit your attention to what I fear may be a tedious, but I hope not a useless discussion.

By the Constitution of the U. States they are made responsible for the defence of every portion of the Union. Every speck of it is sacred, every spot, considered in its relations of every nature, is dear to all. We cannot allow, we have no right to permit an invading foe to print a footstep upon it. In one respect all the millions of human beings who tenant our soil are proprietors in common, and the trespassing enemy who shall touch their property, whether on the shores of the Penobscot or on the banks of the Mississippi, violates a common right, and infringes a general interest. Guarded as we should be against consolidation, we are, in some particulars, one community, and the distinction of States vanishes before the complexity of our concerns, and the high and expansive obligations of defence and security. Hence, when we became a nation, although the States held back, with prudent jealousy and a wise forecast, many and indeed most of the powers which municipally operate on the citizen, they frankly conceded to the nation a sufficient and availing authority for securing the safety of all. While they determined to keep within their own grasp, and exercise by their own instrumentality, and in their own way, all that they could safely manage, they agreed to make liberal and complete grants of what could only be exercised by the gigantic energies of the one great combination exhibited in federal supremacy. There they placed paramount authority; there they devolved the comprehensive duties which embrace our widely spread and much diversified region. In consequence of the system under which we enjoy our rich and numerous blessings we must bow to the Dominant Power, our fathers created, and that Power must acquiesce in the means of its action and security, and must sustain them. Among those means, the States generously threw into the lap of the Union the whole power of creating navies and armies, and of erecting fortifications, and, what is more than all the rest, they gave her too all their militia, they prescribed to all their soldiers loyalty and affection, and directed that, when a foreign foe should invade, their swords should be devoted to her protection. The early political writers and speakers of our country have exhibited, at large, the occasion and propriety of this ample grant, and their views must be too familiar to you, to render necessary, here, that exposition, which would only help to satisfy any one as to the existence of a grant by the display of its fitness. It is true that, as to the framers of our Constitution, we may safely infer what is from deciding what ought to be, but, by the same rule, we ought to rest on the fact of the existence of a provision without being held to show upon what reasoning it was based.

The Constitution having authorized the provision for calling out the militia for the common defence, and the laws having made that provision, every militia man becomes on the occasion, at least potentially, the citizen soldier of the United States. The narrower objects yield to the great purpose of combined action, the more contracted affections obey the impulses of patriotism, and we feel and act, if we feel and act as we ought, as the citizens of a country in which no subdivisions are known. We then combine, and forgetting State, County, and all minor relations, we present ourselves to the *United States.*—This is what the Constitution requires and the laws sanction; but beyond this there is a primary and original relation, which connects the member of the militia, personally and singly, and by the strongest bonds, with the General Government, as the defence of that vast and interesting, populous but increasing, rich but improving, enlightened but learning, and in fact most astonishing country in which we live, as its soldier and defender. This militia man, this soldier of liberty, has also strong ties which hold him to his State, but when the *country* calls on him he rises into the high capacity of the Soldier of the Union, his rank acquires more distinguished honor, the sphere of his duties is enlarged, and he stands the instrument of a general protection. Indeed, the duty of allegiance and the inherent right in all to demand and receive of each his whole physical and moral capacity, to rescue his country from invasion and conquest, and from the subversion of that compact to which he has become a party, results as necessarily from that sacred combination of virtues, called patriotism, and from the law of nature itself, even as filial piety, parental tenderness, or neighborly kindness result from the social state.

We see, then, on one part, the Government invested with the power, in the name of the nation, to elicit for its defence the individual energies of the citizens; but we may also perceive that the grant of this power did not extinguish any right of those citizens which might be exercised in perfect concurrence with the purposes of the grant, and which, in its action, should be not only accordant, but auxiliary. While, therefore, a right of command is given the General Government, by which it may compel the rendition of a certain tribute or of specific services by the Militia, still the effect, being the primary or rather the only object, a voluntary discharge of the duty is as legitimate as a compulsory one, and a service, independent of a presidential order, as good, in all respects, as with and under it, provided it shall not be in contravention of the general design, but in subservience to it. If in this cautious progress I have fairly kept the course, it must be consented that I am entitled to this part of the prize I contend for; that is, the admission that, while the General Government may command the militia, the militia, on its part, may serve, in certain cases, without command and with a right to remuneration. It is, it must be true, and it will be the practical comment on the Constitution, that in case of incursions on our territory, the militia ought not and will not wait for a presidential or any other order, and sit, for want of it, passively to be burnt alive in their dwellings, meekly to witness the spoliation of their property, cowardly to permit a ferocious enemy to violate all that is dear and destroy all that is sacred and valuable. If the militia are citizens of the United States, the resistance of such things is not only a benefit, but a duty to that *country* of which they are constituent parts, and it is of no consequence to consider any thing more than these two points: 1st, Are the militia citizens of the Union? 2d, Are they, as such, entitled to charge the Union with their service? And in this respect I care not for the command. The right and duty of the militia to defend themselves against the horrible calamities which a victorious army always bears along, calamities worse than those of pestilence, famine, or death, although the exercise of the right and discharge of the duty create a governmental liability for indemnity, do not ensue merely from governmental provisions to be applied in specific modes. They are inherent and primitive, and required by that great and first law of self defence which all laws, and theories, and systems sustain. The mode of action also need not be through organized corps, but each individual may act severally, so far as legal authority may leave him free, and still, in protecting his own person and property against a declared common enemy, who, in the case acts as such, it is not an act of private trespass he resists; but it is a public aggression, it is invasion of the country which he repels, and, in repelling, he, in part, acts in behalf of all. In this personal act of self defence against one whose movements are directed, as in war they always are, not against one poor sufferer, but against a belligerent people, he is not in the situation of a man in a state of nature;—he is the member of a body politic, and the servant and soldier of the nation. It is vain, it is dishonest and disreputable, in such a case, to lock your treasury and talk coolly, and forbidingly about the technicalities of law, and to give him, instead of pay, the subtle reasonings and astute distinctions of unfriendly constitutional construction.

If it be then true that a duty is required by all from each, and that a right exists in each to render that duty, it results, clearly, that there is morally and politically a mutual obligation. What is it in the present case? It is this. If, on the one side, the property of our fellow-citizen is taken for common use or destroyed in a common cause, the obligation, on the other part, is devolved, with sacred character impressed upon it, to apply the general stock for indemnity; or, if service has been rendered, the implication is as strong as positive enactment that the public treasure shall be meted out to an adequate extent. All this must follow from the principle; to which every member of society must yield, that no one owes to it more than a proportional amount of sacrifice, and that, when more than that shall be made, he has a right to charge and recover it, and that equity and the fundamental policy of society require payment.

Let me, here, request you to recollect that throughout the discussion, in which I am engaged, although I shall use the term militia, I shall use it as a noun of multitude, and not in reference to an agglomerated mass; but with a special application to the integrant and separate parts and individuals who compose that vast physical power of this great nation. Although in one point of view, we may regard the militia as a unit, a mighty energy, a homogeneous instrument, wielding with a strong arm a nation's power and executing with one action a nation's terrible and effectual vengeance, yet we must descend from this exalted and sublime contemplation when we are called to the humble but important and indispensable duty of the settlement of accounts. In business concerns the petulance of party, the abstractions of politics, and the vagaries of theory must be laid aside, and we must come down to calculation, and to the decision of the lower and simple question of what is legal liability, what is the pecuniary concern between creditor and debtor. For ourselves we may say that we would not resort to law or constitution to determine what we should do in behalf of those who have served us; yet for the nation we will act as judges, (for we have all a right to judge,) and inquire as to the obligations of the compact, as to the duties involved in the terms and spirit of the bond. It shall be law, plain, inviolable, and obligatory law to which we will refer our dispute.

This may be safely adopted as a political axiom, that wherever any one, during a war, and in defence of the country, shall render to it such service as shall be admitted to be useful, proper, and necessary, he, as an *individual*, has a claim for compensation from the party served, even if it be the whole body politic of the United States, which policy, justice, and the constitution will sustain. The merits of a claim in relation to the individual cannot be affected by the offences, of others. If his duty be personal, his whole interest, however, in form, combined with that of others is also personal, the combination being only for convenience in a case where discrimination into parts is supposed to be unnecessary.

But to be correctly understood, I must here remark that I do not regard "The Claim" as being, in truth, a State claim, but that it seems to me proper to consider Massachusetts, as being, in her corporate capacity, the trustee of the persons, reckoned as units, who served under her command in the common cause and for the general defence and welfare during the late war. Those persons have received from Massachusetts an advance of their pay, but it was derived, mainly, from taxes on themselves, either directly or indirectly, and which were, virtually, paid for the benefit and in behalf of the United States, which received the services in question, in the same manner as it did those of the militia of New-York, Maryland, or Virginia, now fully paid, while those of the militia of Massachusetts are unsettled, because some politicians think that the standard which bore the arms of a State, although waved by the pure breeze of patriotic sentiment, must have shaded with baneful influence the sound and healthy hearts of our virtuous yeomanry.

If I shall succeed in showing that the claim is really a claim of patriotic individuals, who acted as members of the United States militia, the difficulty as to the alleged misconduct and unfortunate errors of the government of Massachusetts will be removed, and he who shall still oppose the allowance will be driven to the rank injustice, the obvious absurdity of pronouncing against the virtuous and faithful defenders of the country, because he has identified them with persons and facts which do not touch them, and with purposes foreign from their nature.

In reference to interest the claim is evidently a claim of individuals, because every tax-paying citizen has contributed his share of incurred expense in the same manner as the militia man testified his fealty to the Union by his service amidst its dangers and wants. Among those who thus contributed, through the State agency, and who also, by means of imposts and direct taxes, have been paying the charges for militia services for other States, were even those individuals, who, with hearts glowing in favor of the cause, actually stood in rank and file on the field with their swords and muskets and good resolution too to do honor to the war and to defend the country.

It may be said that on the ground here occupied, the *government* of a State would never subject its *citizens* to liability for its acts or, if you please, its sins, whether of omission or commission. It is, in reply, agreed that the agency of that *government* does bind the *citizens* when exercised within the scope of its legitimate authority; but it is evident that the State government cannot cancel your allegiance to the nation, nor change the character of the service which that nation may require you to render against its own enemies. Any service of defence rendered, being of the nature required, in time of war, is required in consequence of the declaration of war, in subservience to the general object and goes to the nation. The militia is one deep, solid wall around the Union, and the whole is assailed when the invading army opens his battery on a single rock which has been heaved into that grand circle of defence.

In defending the country, in time of war, it is impossible, according to the true theory of our government, that there can be, in the use of legitimate means, and, in proper strictness of construction, any merely State service; because the act which brings the enemy upon us is not a State act. He invades not a State, as such; but he attacks a part of a country as a whole, and when he is driven back, it is for the general, as well as local security. The cause and consequence are both national, and the means are, if not national, at least auxiliary.

Again it may be said that although the *service* was national, yet that it was rendered through the medium of a State authority under which the right of compensation was forfeited by its contumacy of the federal administration. This is carrying the sin of a refusal to the act of compliance, and also the penalty of contumacy to the act itself of most cordial and effectual support. I, however, answer in another way, that the authority of a State, as far as exercised in such a case, does not merge the national character of the soldier, and that, therefore, notwithstanding the political sins of a State, the whole country stands his debtor for his service, and this I will endeavor presently to illustrate.

The argument which I am endeavoring to refute is substantially this, that the service, which is the foundation of the Claim, was State service only and that it therefore ought not to be paid for from the National Treasury: but before we form a decision, let us examine our premises. What constitutes State service when rendered by the militia? Does command by a State officer raise the foundation for a discrimination? It does not, because the United States have undoubtedly the right to waive the command and permit, either expressly or silently, the militia to act as an auxiliary or independent force under State command. The President has the right to command, but he is not obliged to exercise it in all cases and under all circumstances. Such has uniformly been the construction of the Constitution, as appears from the services of the militia of several States, rendered independently of the federal authority, having been subsequently recognized as good and paid for by the nation.

It has been urged that the service embraced by the Claim was State service because Governor Strong refused to obey the requisitions or invitations of the President. There is an answer to this which is perfectly satisfactory to my mind. Gov. Strong's refusal was an act which only applied to himself and to the time and circumstances under which it was given:—to himself only, because he did not hold that sovereign authority which could constitutionally restrain the citizens from obeying their paramount obligation to defend their country:—to the time and circumstances because they determined the existence or non-existence of the obligation to serve.

As to the first idea, I contend, that if a Governor of a State is to be considered a militia officer in any other sense than as merely a militia officer of the State; that is to say, if, like a Major General he is subject to personal orders under the United States' Laws, his acts must be attended by consequences only of the same character as those of other officers, and he would be subject to orders and responsible for obedience in the same manner as they are. The responsibility, however, which he would incur could be only personal to himself, and could not implicate others. He would be answerable for a neglect of duty in not transmitting orders, for a violation of trust in not complying with constitutional requisitions, for refusing any call for such services as the common interest might require, and for the proper use of such means as the laws placed in his charge, but his being for the State the Commander in Chief of its militia does not show a variance as to the *nature* and *effects* of his acts from those of a subordinate officer. The elevation of his station alone does not carry the poison of his malversation to others; for if his situation could effect that, that of other officers might effect the same, and we should see companies condemned for the faults of their captains, and regiments and divisions for the sins of their colonels and generals. The only difference between them and a Governor, as militia officers, consists in the measure of authority, the extent of command; yet we do not contend that the troops even of a traitorous commander, cannot be paid, but must suffer expatriation on account of his desertion and forfeiture for his delinquency. That doctrine has been reserved only for the case of the claim of the Massachusetts militia, who are condemned to a heavy penalty for alleged offences of their commander, and those offences consisting in the expression of opinions, and refusals of acts; against which the United States might have opposed themselves in the effectual way of an appeal to the citizens for such corps of volunteers or by orders for such detachments as might be necessary for the common defence, if the State itself had not prevented the occasion by its own energy. There is no constitution or law which takes away the sovereignty of the United States over the militia when required for repelling invasion, and it would not be admissible that a negligent or traitorous Commander in Chief should, by want of patriotism, keep the militia repressed while war was thundering along their borders. On the contrary, the sovereignty of the United States, as applicable to certain exigencies, is paramount and reaches every where throughout the country. When the great representative of the nation, the functionary of the Constitution and the law, sounds his trump, when he proclaims to the States that war is rolling on their shores; they must give their men, those who deserve to be called men, who shall be as rocks to break the waves and stem the tide of invasion.

But supposing the Governor's military capacity to be whatever it has been considered to be, he is, at least, no more than a militia officer, and, as such, his acts are merely personal, and cannot change the rights, the duties, or the character of the claims of others, nor can they affect the legitimate authority of the United States.

There now comes before me a topic of peculiar delicacy and one from which prudence pushes me away, but my own soul would spurn itself, if I may so speak, if I would refrain, after having engaged, from presenting for consideration every idea which I believe important for the illustration of truth. We are, as you know, politically and physically but the beings of a moment, and the fall into the tomb, which we should all anticipate, can only be made light by the support of a conscience which is formed from the materials of acts and principles intended to be right and useful. At any rate, if there be any thing killing in such a concern, it is better to die on the field of manly energy in an honest cause, than to be caught asleep and to receive the shaft of death on the couch of indolence and repose.

What were the official rights of Governor Strong and what effects should his acts have on the claim? I before assumed and will now endeavor farther to illustrate the proposition, as sustained by the Constitution and the United States' law of '95 that, in time of war, the federal government may make its requisition for service directly on the humblest officer and, it may be added, even on the soldier of the Union. The militia in that exigency belongs to the whole country, and we see the progress of amalgamation, as in a chemical process, suddenly converting the separate powers of the States into one mighty and mingled force. We see those States which moved independently before, whose militia stood alone in its own element, suddenly drawn, on the falling in of danger, by the attraction of cohesion and affinity into one mass.—When war shall be brought against us we cannot be safe, without such a combination. It is not for Rhode Island single handed to fight Europe; we must all lend her our swords if Europe shall invade her, and, it being the duty of all to act, the right to require the action has of course been confided to a common, central authority. It is in fact the only proper object of politicians and legislators to ascertain what ought to be done, and to find the mode of compelling human nature to submit to duty. Let us then, for the present, adopt the general proposition that the U. States' government holds in its hands the whole physical force of the country for its defence against invasion. This is as much power as we, republicans, ever asked for it, and as much as we ought to ask for a government, which as it rolls down the declivity of time, is every moment gaining weight. But from the liability to comply with a requisition for the physical force of a State there must be some exceptions from the general rule; as for instance, those cannot be liable to yield to it who are in those civil offices in a State in which they represent its sovereignty. The Judges of our Supreme Court created by the Constitution as organs for exercising those functions by which in part we live as a body politic, cannot be drawn into military service, nor be arrested for refusing it, for, if they could, the State, of which they constitute a main pillar, would fall. Its authority, its laws, its sovereignty, its protection, and its checks could not be dispensed. Its functions as a State would cease, and its very existence would be suspended.

But let me not hover around the question, let me light upon it at once. I say it would be a monstrous usurpation to require that personal service which should interrupt the gubernatorial functions of the chief executive of a State; because the doing so would be taking away the essential and necessary agency, by which its constitution and laws are guarded and executed, and by which it shows itself in front of the world a free and independent, self-moving and self-controling being. What is a State without an administration, without an executive, without its agents? It is matter without activity, it is organization without the breath of life, without operation, and without utility. It is not here pretended that a State in this Confederacy it perfectly independent, but that those who represent its sovereignty are so far free, that the obligation to do right in concerns between them and other distinctly separate agents is rather, in some cases, moral, than political and constitutional. It seems to me then that I have advanced safely to the conclusion that a Governor's services for personal action in war, cannot be subject to the imperial authority of a foreign power.

If I shall proceed with as much reflection and caution as to the next point, I think I need not fear to undertake to satisfy you, not only of the rectitude of my intention, but the correctness and conclusiveness of my reasoning.

If Governor Strong was not the subject of a requisition which might have enjoined him to shoulder his musket and march here and there as ordered, if it was in his power to have rendered nugatory, totally ineffectual, any such requisition, if he could not be driven by an United States' officer from his civil official duties to the tented field, let us see how far he could be controled. But with the base, (I acknowledge it to be base,) timidity as to misconstruction which I cannot repress, let me premise that my doctrine will lead to no anti-national interests, to no gratification of measures which shall give food, or countenance to a foreign foe, and your candor will not lead you to the intrepretation which shall warrant impugning the patriotism of your correspondent, from any remarks here offered to your reflection.

It has been contended, in private discussion, that, if the President could not legally drive a Governor to the battle ground of armies, he might, nevertheless, require him, authoritatively, to turn out the militia of his State to fight the country's foe. It is contended, that the mandate, in such a case would go with the impress of imperial power, that it could not be questioned, and that, under all circumstances, it must be servilely obeyed. I beg you to notice that under the distinctions I shall present, as you will in the end see, the United States' authority will not be impaired, but let us now look at the principles applying to Gov. Strong's course, because, if he was *constitutionally* wrong, the Claim can never be allowed, provided his acts carry down an imputation of sin to the militia. He was shielded impenetrably by the impunity which the sovereignty of the State cast over him, and, if any must suffer, it must be the militia. That it was proper, discreet, and just, to make on him, in the first instance, a requisition, I admit, but we must ascertain the constitutional character of the requirement before we can determine the legitimate effects of a refusal.

Facts aside, for we will let them sleep, and we will not, if we can avoid it, disturb any passions now lulled, a requisition is no more than an invitation and cannot be imperative. It is an invitation for the use of that concurrent authority which the State possesses to defend itself in war. The invitation carried with it, by implication, the pledge of the national executive for remuneration for services which might be rendered under it, but, as it was not, in form or substance, an order of a controling character, the incivility of a refusal could not be applied to acts rendered in reference to different circumstances. Indeed it seems to me to be evidently true that, while the military force of a State, as such, may be used for a purpose in which the nation is interested, the question whether the Governor can be considered under a constitutional subordination to the President, in this particular, is quite foreign from any inquiry as to the rights and liabilities of the militia. When the United States shall call on the militia by an *order*, that will make one case, when they shall invite a Governor to call on them, surely, that will make another, and the responsibilities in each will correspond with the pertinent facts and incidents. The militia has a national character which would require obedience, and prohibit a State view and merge State relations; but the Governor, if called on as Governor, has no existence but as a State officer, and, in that capacity, being independent, must act on his discretion; for as a State officer merely, the U. States cannot operate on his independent authority any more than could the king of France. However perfect, therefore, the authority of the President over the militia might have been, during the late war, it will not follow that a refusal to comply with a requisition, if made on Governor Strong as a State officer, was in contravention of the *constitution*, although it might have been in violation of policy, propriety, and public sentiment; but, on the other hand, it might have been in the exercise of a sovereign right, for he could be made answerable only to the opinion of his constituents, and his act, therefore, could not vitiate their services.

Let me also press a difficulty which applies to an argument frequently used. If a Governor has no right to judge of the exigency which may require militia service, then when the State shall be invaded, he must wait his orders; for if he shall act without them against an invading enemy, he certainly must judge of the exigency first, because he will act in the supposed case only upon the exigency. It was, however, the opinion of Gen. Knox in '93 and of Gen. Dearborn in 1803, that the Governor of a State might decide as to the fact of invasion or the imminent danger of invasion, and might act in resistance. It appears then that he may judge affirmatively as to the existence of an exigency: but it will be said that he cannot negatively, as, in the latter case, he will contravene the authority of the national government. It would be easy to present numerous cases in which the affirmative would as completely counteract Congressional and Presidential purposes as the negative. The truth, in short is, that we have first in reference to a particular case, determined what a Governor ought to have done, and thence we have settled very inconclusively the measure of his powers.

A requisition made by a federal on a State officer may be said to express the intention that the service to be rendered shall be considered as national service through State troops, and it may be farther urged that when the militia shall be called out by a Governor under the invitation of a President, they may then be regarded as State troops in the national employ. The distinction cannot be available to the opposers of the Claim, for, if correct, it will only lead to the conclusion that State troops may be entitled to pay from the United States. Of consequence the objection urged that our demand, as a *State concern*, is invalid, falls to the ground, for our soldiers certainly were in the *service* of the Union.

You will, perhaps, inquire, if this doctrine be right, what shall the United States do in case of a refusal to obey its authority? I answer, let it address its *orders* to responsible officers, when orders shall be necessary, and, when they shall have the right to do so, proceed, on disobedience, to punish the guilty, but only the guilty *individuals* who may be within their jurisdiction and who may violate their obligations, and then too only for the particular and proved instances of criminality. If, for example, Governor Strong was at the bar of the Supreme Tribunal of the Union on the charge of refusing to comply with the President's request, let that Tribunal act on the principles which law and justice have consecrated, let it require a description of his offence by its metes and bounds, and dates, and then decide on that single concern. Proceeding with that just and necessary precision, how could it condemn a virtual compliance on account of a nominal refusal, a labor to-lay for idleness yesterday, or the efficacy of thousands for the recusancy of one. I must avow that I think the Commonwealth had deep cause to complain of Governor Strong, but I deny that the United States, in the specific case before us, can properly rest on the ground it has taken: for it is true that the purpose of defence was as far as possible executed and that Massachusetts practically made common cause against the common enemy.

I must note here, that, in speaking of militia, as an aggregate State force, I do not mean by the use of convenient terms, to be considered as abandoning or inconsistently denying the idea that such troops ought to be considered with reference both to individuality and nationality in the same manner as I at first presented them. At the same time it may, safely and must, justly, be admitted that a corps of militia in service, and in time of war, may exist as a State in contradistinction from a national force, and that, when it shall have so existed, the nation cannot be called on by that force or the local government which has employed it, for remuneration for services, indemnity for sacrifices, and consideration for wounds, for losses, and for death, to which soldiers are exposed, and for which they or their families, must, if justice shall rule, have something in return. But what constitutes a military band a State force and what excludes the character of nationality? The inquiry is important, because what belongs to a State must be sustained by it, and what pertains to the nation must be supported by the nation. Now admit that a State command shall attach all of local and peculiar character to a body of militia in service which such a circumstance can carry with it, yet, nevertheless, and evidently, that body may be national, for the authority of special command, the discretion of immediate control is, in all armies, at times, even less than State, because it is personal. This is sufficient to show that it is the being who is served and not the being commanding, who is to be considered, when we are determining who is liable for the service rendered.

Again, a detachment of militia cannot take the stamp which designates it as State militia without being not only raised and commanded by the State, but employed by it in its own private work, or in a voluntary labor of supererogation for the Union. On the moment when such a detachment shall be employed in such service to the Union as is required by a prior obligation growing out of our political compact, that obligation creates as fully a liability to payment, as if the contract had been, not general and constitutional, but a particular, special bargain, executed by the contractor, with perfect exactness, under the immediate direction of the employer.

When the Union had in view the single object of the defence of States by the militia, it is its best policy, as far as it can safely trust them, to allow them to make their own defence, to act by their spontaneous energies, their personal and local impulses, their internal, social, and patriotic calculations, with an understanding that they shall be paid. Men who act in this way, march forward with cheerfulness and confidence. Pride alone, (and pride is a good, and, if well managed, a useful trait of character,) helps them along, for men do, notwithstanding all their loyalty, prefer to effect the same thing independently, rather than as mechanical agents. But the policy is for other reasons sound and worthy of consideration,—because it saves the preparation of the funds necessary to sustain a federal army. The States, in the beginning, turning out their militia for the common defence, do, virtually, both make a loan, and furnish soldiers for the nation. They do, without much difficulty, rich and populous as they are, and with occasional aid, take care of themselves for the benefit of all, and, waiting for peace, then quietly settle their demands. What a delightful and harmonious and efficient system, what a contented and loyal population, what a just and satisfactory administration should we have, if we would all adopt these views. I appeal to you, Mr. Editor, to say if they are not correct, politic, and worthy your approbation. If not, I pray you to enlighten me.

The policy on which I have bestowed my humble eulogy is farther commended by these considerations, that the observance of it will not only obviate the necessity of burdensome direct taxes, as I believe, among the worst of political evils, but, it may also be urged, that this policy should be cherished, because the States can better defend themselves by their own independent action, than by a controled agency, by a command from a foreign authority, not immediately connected with their interests, not intimate with their concerns, and, possibly, not particularly friendly to their growth, their rise, and their influence, political or moral, relating to occasional disputes, to a presidential election, a vote on appropriations, or on other objects, which I will not name, or on any thing which may interfere with a selfish ambition, or an unhallowed avarice. The States, in truth, ought to be indulged as far as is safe, in regard to the Union, in using their own means of defence, according to their own wishes, for the farther reason that they, commonly, most clearly foresee their own dangers, are best acquainted with their own means of defence and offence, are most informed as to their strong holds, and weak places, watch most vigilantly their foes, understand the character of their friends, and, on the whole, by their unchangeable interests, are impelled to the highest point of caution, on one side, and activity on the other.

Farther than this, and above all, we should recollect that the militia will not serve with the same confidence, under United States' officers, as they will feel when subjected to the command of those only who have been chosen by themselves, with whom they are acquainted as worthy citizens, and to whom they are attached as militia men, having the same sympathies, habits, and interests as their own. It is not removing the force or disproving the propriety of these natural and universally cherished feelings and sentiments, to urge uniformity of discipline and unity of command as all-important, because the system of discipline, depending on legal regulation, may be made uniform, under State officers, and unity of command cannot exist, except in name, where no combined movements are to be made, where scattered posts are the theatres on which are to be the military operations, for the single and several purpose of maintaining them. It is impracticable to reduce our militia in this extensive country, to the same military character, or to fit it for the same discipline, which may be impressed on a standing army. They will not allow a tyrant officer to put a yoke upon their necks; they will scarcely tolerate even an imperative tone of voice; much less will they permit some strutting fool, on whom favoritism has bestowed a pair of epaulets, to direct them in the deepest, and the highest concern of patriotism, the defence of their country, if they can avoid doing so without a violation of duty. This feeling, this militia *esprit du corps*, may evince too much jealousy, too much of stern and stubborn pride, too much of sturdy independence; but it exists, and we must, I will not say *reform* human nature, we must *form* it, and in a new mould, and of different ingredients, before it will be otherwise; and government must, at least partially, accommodate, or the words written on the parchment, will be blotted out by the anger of the aggrieved and irritated citizens, the neglected, but all powerful militia.

Again, if the militia is to be denounced, and deprived of pay, in consequence of the acts of its Commander in Chief, if the United States shall discard them for the supposed unworthiness of some of their officers, civil or military—that commander and those officers may, at any time, break the bonds which connects them with the federal government. The militia will not serve a government which refuses a reciprocation of friendly regard and a just return for laborious and perilous duties. They will go where they receive compensation, protection, and kindness, and if the United States refuse these, the alienation of affection and confidence will certainly follow. I do most strenuously urge that, however the wounded honor, the insulted pride, the abused character of the militia-man may provoke his indignation, he ought to forget and forgive all, in the consideration, that he should cheerfully submit to the decision of his country, and never abandon that, never relinquish his confidence in its equity, magnanimity, and generosity of sentiment; yet never were faithful soldiers so badly treated as have been the citizen soldiers of Massachusetts, and all upon such rodomontade as is found in the writings and speeches which this subject has produced out of the mud of party prejudice. I have myself been guilty of this prejudice, but I will submit to your judgment to determine whether prejudice is here exhibited, as to one side or the other, and I will hold myself bound to apology and reformation, if my feelings or my mind have led me astray.

Considering the claim then, not as a State claim, but as a claim of our militia, let us revise its history, generally, and state the case as we, at last, find it. The United States, as guardians of our rights and defenders of the honor of the nation, and for many good causes, declared a war which involved Massachusetts in the common and in the more than common sufferings and perils with which such a measure is borne along over a country. It is unnecessary to speak of the dreadful crash of fortunes, of the palsy of commerce, of the sickly and aghast aspect of agriculture, of the faint and pitiable condition of the arts. It is enough to say that Massachusetts was wrung in every nerve and fibre. Let us not then, talk about Governor Strong, or any individual in this vast concern, which lays between the Union, on one side, and the people of the Commonwealth, on the other. With the power to wage war, the wise framers of the Constitution connected not only the right, but the duty of conducting, either mediately or immediately, the whole operation of offence, and of defending, also, every portion of the Union, which gave for this purpose, all its fiscal, naval, and military means. Proportional contribution was guarantied by one party, and equal protection stipulated by the other, to be rendered out of the whole fund of money and of strength. Massachusetts was one party and did pay her contribution, used her militia effectually for the safety of the Union, and she asks the Union to adopt her protection as its own, through a recognition of that militia. The cause in which they acted was a *common* and adequate cause, the obligation to act was perfect, the means were necessary and legitimate, the effect was the general defence, and all that transpired agreed suitably with time, place and occasion, conformed with economy, and tended to the great end. As far as statement so general can be accurate, that here made, if there is not in it some unintentional error, may be relied upon: yet the claim which has resulted is rejected. Why? It is giving, perhaps, not a full answer, but one which reaches the view most frequently taken, to say that it is objected that there was a want of requisite formality; that the *Governor* did not ceremoniously send notice to the *President*, that General Dearborn might issue orders to the militia to do precisely the same thing which they were doing without his orders.

But let it be remembered that those men did not receive orders from the President or General Dearborn, and that, of course, they never refused to obey them.

Let it be especially remembered, that, without these orders they must either have served as they did or not at all.

Add to this, that many of those men, whom you now require to pay themselves out of taxes on themselves, were zealous friends of the war and of the national administration; and add still farther, that at the period when they rendered their principal service, the era of patriotism had come round in the Commonwealth.

Mark the feebleness of the argument opposed. The duty of defending through all its means is admitted to rest on the Union, the fact of the defence for its benefit is admitted, but the liability to pay is evaded on the ground of irregularity in the mode and contumacy in those who were not in fact personally concerned in the service. The citizen soldier is admitted to have been charged by the nation with a duty, he discharged that duty to the nation, and it then refers him for compensation to a minor authority assumed to have been hostile to the performance of that same duty. This view is too humiliating as to the character of our general government to admit of my dwelling upon it.

In assuming this ground as to the Claim it must have been perceived that I do not mean to weaken the military power of the United States; for dangerous as that power may be, it would be more dangerous that it should be annihilated. Danger there must be;—we may anticipate at least that the case may happen, from the ambition of a military chieftain and an usurping administration on one side, from the spoliations and conquests of a foreign enemy on the other. I would choose at all events to confide enough power to guard against the latter danger; yet I think it would be an improvement in our system, if the States, even in peace exposed to great insecurity against the overwhelming and rapidly growing and infinitely ramifying assumptions of the Union, might be permitted to control their own defence to the extent of their own means, in concurrence with the general object, and not in negation of any existing federal power or duty. Be that as it may, the refusal of Gov. Strong affected not the *rights* of the Union, but these and the obligations of the militia remained the same afterwards as before. This, it report be true, was the construction of the President, for it is said that he provided for organizing a Division in Maine under Gen. King, to be in the service of the United States. How then can it justly be alleged that on act which left to the government all its rights and which held the subjects of it under all their liabilities, vitiated services rendered to that controling government by those cooperating subjects?

Perhaps it would not be fair as to all who refuse the allowance demanded, but it would be an exact representation of some to say that they do not contend against the Claim, and will not attempt to maintain that it is not constitutional, but they are disposed to rest on their objections to the conduct of Massachusetts during the last war; yet if nothing was done by the State which affected the rights of the United States, it seems to me that for expression of even the most erroneous sentiments they cannot, as creatures of the constitution, be justified in inflicting such a penalty as they insist upon. It is not enough to talk of the designs of Massachusetts. Only that Being, who looks into the heart, can know them. It is not enough to show certain indiscreet essays in newspapers, for their authors were madmen. It is not enough to show that Massachusetts was opposed to the war, to the dominant party, and to the national administration, for, wrong as I humbly believe she was, I would choose the mortification of seeing her wrong, rather the tyranny of restraining her by penalties, and the fine of nearly a million of dollars imposed on her good yeomanry.

You must allow me to speak freely, if at all. Let me say then, that if the general government intended to impose this fine on our citizens, it ought first to have tested their patriotism by an appeal to it, such as is warranted by the laws to which I have referred: yet instead of that it was guilty of the laches which I cannot enough condemn of applying only to Gov. Strong, and then subjecting us all to the imputations and the consequences which belonged only to him. If he was right be his the honor; but if he was wrong those are at least as much so, morally and politically, who involve the innocent in the odium resulting from his act.

It is however urged, that those who sustained his reelection sustained his refusal to comply with federal requisitions. Little do those know of human nature who speak in this manner. The object of supporting a man for office is not to approve all his public acts, is not to be identified with him in every thing. In voting for a man various considerations not extending to perfect approbation govern the judgment. There is no doubt that the course pursued by Gov. Strong affected injuriously his popularity, and that he would have been more beloved if he had moderately and cautiously supported the war; but he was a federalist in a federal Commonwealth which had legally a right to be federal, he was a simple, plain, intelligent, popular countryman, a religious and moral man, and the people would not give him up. Pride, principle, confidence in integrity, personal attachment, habitual reverence, party feeling, all operated in his favor. Yet this is considered evidence of opinion on a particular question, and a rule to regulate constitutional rights.

Again it is said, that many of the acts of the Commonwealth, indicated a disposition which precludes favor. Favor is not asked. Is the Claim constitutional? is the question. Is it a claim which in equity, in policy, in justice, may be allowed under the legitimate powers of Congress? Now, if it be a claim of rebels for rebellion, if it be a demand for the reward of treason by traitors, there ought to be a strict construction against it; but if it be only an account of the services per diem and the expenses per item of men who were serving the country, then away with the base subterfuges which would cloak liability with prejudice, and dishonesty with plausible pretexts. What have the sins of a Governor or legislature or party to do with militia services? What connection have any offences with an act of virtue? What concern has party violence with patriotic sacrifices? Yet at last and in fine, as to this point, I deny that the citizens of Massachusetts were, during the late war, alienated from the Union or hostile in feeling or sentiment to the best interests of the country. Those who believe that they were do not know them; but they ought to know that the great body of the people in all our sub-communities are virtuous and patriotic—and that they have always had so deep an interest in and felt so strong an attachment for the Union that they could never prefer a foreign foe to the triumphs of their country, and the success of a faction to a nations's welfare.

In the discussion of this subject in Congress, as appears from the Reports, Gen. Houston, who acted as the champion of the opposition, and who is supposed to have sustained it as ably as the nature of his cause would admit, asserts that it was the duty of Gov. Strong to have issued his orders under the *laws*, and he considers the declaration of war a *law*. As to his opinion of duty, considered in its most comprehensive character, I will frankly allow the whole force of that gentleman's exposition; for I do not address you as the advocate of Governor Strong, but as the friend of the militia. Against him I fear that I have entertained in my system, a concentrated and abundant gall and acidity, which may have, in some measure, corrupted and disordered it, and I will not now speak of him, lest I should do him that injustice which may bring me to a painful repentance. The General, however, has left his argument exceedingly defensive in not discriminating as to the species of duty to which he has alluded, whether as requiring merely volunteer,

and friendly acts, are only legal functions. We must push him from his declamation, whatever pleasing ability he may display in that, and press him to logic and to law. We will, if you please, endeavor to ascertain his element; we will, at any rate, cast out our harpoon against this leviathan of prejudice and party. The Constitution authorizes Congress to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions. The purposes and objects are several, with lines of demarcation, as obvious as ranges of mountains or the broadest of our wide rolling rivers, and we see, I speak of those who are not blind, that the powers and designs, the means and necessities of the Government, are exactly commensurate. The execution of the laws is the administration of them according to their terms and spirit in application to the objects defined in them. To call then the declaration of war a law, specifically bearing on the means of supporting it, as for example on a requisition for troops, and on a refusal to comply, must be an act of error, and misconstruction, which impeaches either the exercise of clear discrimination, or the disposition for fair conclusion, undoubtedly in this case only the former. Indeed, not only principle, but usage and precedent condemn the proposition, that a Governor is bound to furnish any particular quota of men, or contribution of means, by virtue *only* of a declaration of war.

The very superficial argument which is used, involves the notion, that if Massachusetts was not obliged to turn out her troops to repel invasion, she was, nevertheless, liable to do so, to execute the law, that law being a declaration of war. This, if correct, is at once bringing the States prostrate before the federal power, and laying them at its footstool; because, upon the force *alone* of the declaration, they would be obliged to use their militia to any possible extent for whatever might be demanded in support of a war at any time, and under any circumstances after its declaration, inasmuch as doing so would be in execution of a law. In truth it is a disgrace to a politician, not to see and not to acknowledge that a declaration of war is a distinct act of constitutional sovereignty, and that the provision of the means necessary to execute that measure, is a different act of legislative duty.

Even if the declaration of war is to be considered a law, in the vague sense in which the General considers the term, if indeed he did not use it without consideration, it would be a law having reference to an exigency provided for by the constitution, and applying only to that exigency. The authority is given to meet a certain case, and without the case there can be no authority, unless the case must be supposed to exist in consequence of the exercise of the authority. This sometimes happens, yet it will be perceived at once, that under a republican government, and a government of the people, it must be terribly dangerous to assert the legitimacy of the application of all possible power, upon the ground that a government asserts it, and claims its dispensation. The question, therefore, arises who shall determine the *fact* which requires the *process* or *procedure?* Shall every man judge for himself, whether he will obey or disobey his functionary, a functionary not constituted by divine right, but one to whom only a fiduciary character is imparted? While it is certain that every citizen, in every case, in this country, may shield himself by the constitution and the laws, from the consequences of disobeying an executive mandate, still, I will not now proceed to a special application of that great truth. Admitting that a presidential *order* to a United States militia officer might have been, at all events, obligatory, and carrying actual virtue and potential liability with it, it does not result that an *invitation to or requisition on a Governor* goes to *him* with the same force, or can produce for *him* the same consequences, and it would be much worse reasoning, to say that it could act at all on others, who to use the language of the law, had no privity or *joint* knowledge in the concern.

The Governor, in this business, was either a militia officer, subject to control, to arrest, to court martial, and to punishment, by degradation or by death; or he represented, in part, a sovereignty, has all the immunities of a State which can be attached to his station, and is inviolate and surrounded as to his person, by that wall of adamant, as high as heaven, which protects the political body which he serves. If the sovereignty of a State, when moving in its proper sphere, is controlable, I pray you to let me know the fact; but, if it be not, I demand of you to allow me this truth, that he who, in that sphere, represents that sovereignty, must act on his discretion, as to the interposition of a power in the particular case alien, foreign, and intrusive, so far as it comes with a mandatory character, and imperious or imperial assumptions. Supposing, however, for a moment, that the sceptre of presidential sway was as potent over the States as that of the autocrat of the Russias over the wretched serfs in his vast villeinage; yet he could not and would not move that sceptre, without a previous positive act, of jurisdiction as to command. Now show, if you can, one act of command, one instance of jurisdiction by the United States over the militia of Massachusetts during the late war, applicable to a demand for service, and I will call the refusal to obey by all the hard names which may be dictated to me. I will call it rebellion. The course of the United States, as to the militia, in contradistinction from the Governor—(I said the course, I mean the negation of all course,) was an exemption from all those liabilities which special authority might have created, while, on the other hand, the free offerings, the patriotic piety of our soldiers would command a propitious and beneficent regard from any but an inexorable and cruel, and unjust arbiter.

It should farther be remarked that a refusal to serve cannot be affected by services which were continuous unless that refusal could operate prospectively; but no refusal can operate prospectively, because the instrument who exercises the power to refuse is the being subject to impeachment, to a political or natural death at every instant. Beyond this the power requiring may be on the verge of existence and the exigency itself may be connected only with the last sand in the hour-glass: The refusal, therefore, is the passing, the present act, while the future *service* carries with it its redeeming virtues and its essential excellence. The refusal applying to an instant exigency passes away with it, and a new case would require a new requisition; but instead of this we hear of a requisition and refusal as if applicable to a whole war which might have continued like the Peloponnesian war of more than twenty years.

I pursue with more pleasure and interest the argument in the General's Speech to which I have adverted as being the only one I can find there excepting an eloquent philipic against Massachusetts. It should be considered the more precious, as gems are valued in proportion to their scarcity. An argument, on his side, is worth much because it shows a reference to fixed principles. He insists on the force of the information given to Massachusetts that "the measures which may be adopted by a State government for the defence of a State, must be considered its own measure and not those of the United States. The expenses attending them are chargeable to the State and not to the United States." There is however this defect in the view taken in the quoted passage, that there cannot be measures taken for the defence of a State against a foreign common enemy, in time of war, which are not for the defence of the whole Union. War is like a conflagration in a city, where he who stops its progress although he may save his own property, rescues also his neighbor's. The act of preservation ought not to depend on the fire warden's orders, nor, if with them, compensation would be due, could it be refused if without them, not being against them. If the measures, however, were the measures of a State, yet the *service* would not be so limited, if the obligations to obey an order was of the strongest character, the concurrent obligation to act without an order would not be rendered null, and as the claim rests on the discharge of duty to the whole, the execution of the work creates the right to remuneration.

If I had not determined to avoid the common topics which have been exhausted in the discussion of this subject I would follow the General farther, and show that he had been misinformed in many particulars, and that he yielded to a feeling I doubt not foreign to his nature, because, in some measure illiberal and unjust. I would draw him aside from his extraneous invectives and put it to him as an honest, frank, enlightened western soldier, a gallant and open hearted man, a man of expanded generosity of sentiment, to answer simply this simple question. Do you deny that the militia who abandon their domestic pursuits, their private interests, their fireside comforts, their homes and their harvests, to repel an invading foe are entitled to the poor pittance of their wages in return? Is it a part of your patriotism to boast of the courage and sacrifices of the worthy inhabitants of your own State and to gather, with your laurels, your own just rewards, and then to turn on your fellow-citizens abroad, and think to sooth them under the privation of similar enjoyments by your eloquent invectives about gubernatorial or legislative procedures? I doubt not that his answer would be in the negative, but he says they have been paid: yet that is not the fact for the money they have received was but their own restored.

I will only add, in regard to the General's speech, which I do not mean to treat lightly or disrespectfully, that he would have saved himself all his trouble if, when he was reprehending the government or the people of Massachusetts, the question had occurred to him, were the services actually rendered, the less valuable, the less praise-worthy, the less national, if all his accusations were true? That worthy and public spirited representative, that brave militia-man will certainly repent of the errors into which he has rashly plunged himself, and his generous nature will lead him to retract them.

It has, generally, been urged by those in favor of the claim that the requisition made by General Dearborn for forty-one companies of the detached militia was subversive of that provision of the constitution which reserves to the States the appointment of the officers, inasmuch as the requisition, being for companies, excluded the superior officers who would belong to the troops called for, if considered as an entire corps. This opinion, in its whole extent, is not; however without objection, because, as it appears by the documents that the companies were to have been posted in separate stations, and as it could not have been within the spirit of the law, that, thus situated, they should have had Colonels and Majors to command them, and as it would have been unnecessary and useless to have detached them, we must infer, that the omission, in special reference to companies on separate duty was not a subject of complaint or censure. But in making this concession I must refer to the preceding arguments as furnishing full security against any ill effect from the surrender of a point assumed by others as so important.

If larger corps were to be combined or called, in the first instance, together, the letter of the constitution commands a conformity to the case by a detailment of corresponding officers, but if small and distinct companies were to act on separate services they would not be entitled to officers of battalions and higher corps, although if they were brought together, a new detailment of officers might be required. From the history of facts we are led to the discovery of a partial error, on this principle, by Gen. Dearborn; but I waive comment on particular circumstances. My tether keeps me on other pasture. To save, however, the exertion of reaching all the ground on the outmost limits within which I am confined, let me say, for reference, that I have taken much satisfaction in perusing the sound and able argument on this subject of Mr. Davis of Massachusetts, a man better able to do justice to any subject than many of those whose eloquence, if not more captivating to a crowd, listening for "sound and fury signifying nothing" is infinitely more precious to thinking and reasoning auditors.

There will not be a better advocate of the claim than him, unless, *possibly*, Mr. Webster's high purposes shall lead him to makean exertion on so delicate a subject, while his preeminent and well deserved influence shall continue. He will undoubtedly act as his sole pleasure and superior wisdom shall direct, and he will discharge, faithfully, the duty he owes to *himself*, to the Union, and the Commonwealth, in such time and manner as shall be indicated to him by his own exemplary *discretion*. He who unites the best knowledge of prudentials, whether *proximate* or remote, to high capacity can, frequently, accomplish great objects, especially those to which his *ambition aspires or to which his interests guide him.*

In reading Mr. Davis' Speech, it should be recollected that the question whether the national militia would have been bound to obey an *order*, and that whether Gov. Strong, as a State, civil and military officer was obliged to comply with a *requisition*, are entirely different. It must be admitted, that in one view his argument is calculated to give some trouble to any who may undertake to refute it, because they must find a high and strong barrier against their progress in this principle that an independent State officer, responsible only to the State, must judge, as far as his functions may be concerned, of its liabilities, and, taking a broad survey of his duties, decide upon the complicated relations of his various obligations.

In the speech in favor of the Claim by Mr. Dwight, which evinces a talent of which his constituents have reason to be proud, he denies in strong terms one of the propositions above advanced, but it is easy to show that on this occasion he has fallen into an inconsistency. He asserts the constitutional obligation on the President to make his requisition for militia through the Governor—and the constitutional obligation of the Governor to comply with the call. He, however, denies the right to call directly on any subordinate officer—and the reason he assigns is, that by such a course the sovereignty of the States would be annihilated. If we examine this idea we shall perceive that there is a distinction without a difference. The act of the Government is calling out the militia. The admission is that there is no power to avoid complying with the call. The State authority cannot be interposed to counteract the effect. The paramount sovereignty of the Union is thus far perfect. The only question which remains is as to the mode of transmitting orders; but it will not be pretended that the transmission of orders is the exercise of sovereignty or that it is any thing more than a ministerial function. Of consequence the Governor having no power but to receive and be the instrument of communication of a requisition has no sovereign rights.

Mr. Dwight also urged that the law of '95 was unconstitutional, and while he admitted that it had been sanctioned by the construction of the Supreme Court of the United States, in the case of Houston vs. Moore, and by legislative enactment and subsequent acquiescence for thirty years, he denied its validity on account of the causes above stated. That law gave the power to call directly upon any officers of the militia to march to the defence of the country. It does not certainly in terms militate with the Constitution; but suppose that it does in this particular destroy the sovereignty of the States.—The conclusion does not follow that it is unconstitutional, because as to every ceded power the sovereignty of the States is merged by the cession. It should have been shown that the grant of power was not made, and it must be admitted to be now too late to dispute the grant; because it is supposed to have been too liberal. Still, great as it was, and liable to abuse as it may be, it is deemed to have been necessary.

I have endeavored to put this Claim on what I believe to be its true ground of principle. I despise too deeply the mean, evasive, apologetic course which has been pursued, by some, to be willing to consent to an examination in the course which has been taken until recently. The administration of the government of Massachusetts was opposed to the war, was hostile to the administration of the national government. Let us have no equivocation; the whole claim is not worth a falsehood. My argument is not the vain denial of the facts, but on the assertion that the facts do not warrant a rejection of the claim on the most sacred and highly obligatory principles of the Constitution.

If you shall take the trouble to peruse this plain, unvarnished, and dull, but I hope rational view, it is easy to foresee that you may be disposed to censure me highly for omitting the usual invectives against the conduct of those in Massachusetts in power during the late war; but let me say that, it is useless on this occasion to descant on that topic, that my object is not, here, to discuss the merits of a party, but the rights of a State, and that, if I have erred in sustaining some condemned doctrines, my object is only to advance what I believe to be salutary opinions, true statements, and just conclusions. In omitting that wide range of views embraced by a revision of the history of the services, in detail, and the deductions to be drawn from them, I am aware that I leave half the subject unsurveyed, so far as this communication is concerned, but the documents which have been printed contain in this respect nearly all that is necessary for the purpose, while the history of the affairs of Maine and what was Massachusetts Proper furnishes the residue, so that having consumed all the time I can afford and undoubtedly exhausted your patience, I may be dismissed with a few remarks in the way of review.

On leaving the foregoing paragraph, I intended to have offered an analysis, in conclusion, which might exhibit in a closer view and better connection, my leading propositions; but having undoubtedly fatigued you, and being myself wearied, I have concluded to trouble you no farther.

I have endeavored to address myself to politicians, in the hope that I may have offered some considerations which will lead them to these farther efforts calculated to produce a result honorable to the State, and according with its interests. If there is on this subject any pernicious prejudice remaining, duty prescribes an effort, by those who have leisure to counteract it, to expose themselves freely in the service of truth. Even a limited respect for such an attempt will be worth more to reputation and conscience, than all the quiet and undisturbed acquiescence which can be attached to inaction.

I am very respectfully,
Your Ob't Servant.

THE OBSERVER.

PARIS....THURSDAY....SEPT. 21....1826.

We have necessarily excluded much matter to give place to the communication on the Massachusetts Claim. The public will be at no loss to conjecture to whose pen we are indebted, and while they will ascribe the purest and best motives to the author, they cannot fail to be gratified with the talent and ability displayed in the discussion. We hope our readers will give the communication an attentive perusal, as the subject is one of great National importance, as to constitutional principles involved, and of superadded interest to Maine and Massachusetts as a matter of money concern. It was to have been hoped, that this "questio vexata" would have been finally settled long ago, and it would seem that it might have been so settled, if every man had done his duty as well as our correspondent, Mr. Sprague, Mr. Davis, and others. But an open, independent, straight-forward course was probably deemed incompatible with the ulterior views of some whose growing popularity, as delicate as the sensitive plant, shrunk from the touch. Consequently the subject remains "a bone of contention," not for any one who may be playing a deep game of future elevation, but to those who have the honesty and independence to do their duty.

The votes for Governor are not published, as there is almost a unanimous vote for Mr. LINCOLN.

The regular candidates for the Senate in Oxford are undoubtedly chosen.

☞ Towns will do well to make early and due returns of votes that none may be lost from inattention or carelessness.

The Court of Common Pleas will sit in this town next Tuesday.

A Probate Court will be holden at the same time.

Votes for Representative.

	Ripley.	Whitman.	Bradley.	Scattering.
In our last,	693	521	31	6
Sumner, (*corrected,*)	46	29		
Dixfield,	37	20		
Mexico,	21	3		
Canton,	72	1		13
Jay,	63			32
Wilton,	35			
Waterford,	1	60	30	
Greenwood,	5	43		
Lisbon,	11	113		
Woodstock,	45	1		
Fryeburg,	38		135	
Denmark,	32	2	33	
Brownfield,	38		67	
Hiram,	58		22	
Gilead,	15	22		
Albany,	8	29		
Porter,	4		64	
Lovell,	2	5	81	
	1252	849	463	52

NEW FALL GOODS.

G. C. LYFORD

(*At No. 6, Boyd's Buildings, Middle-street,*)

HAS JUST RECEIVED

30 PACKAGES

BRITISH, FRENCH, AMERICAN AND INDIA

GOODS.

—AMONG WHICH ARE—

1400 yards Scotch & Tartan PLAIDS.
1300 " Black, Color'd, & Figur'd BOMBAZETTS.
3000 " CALICOES, *elegant Patterns.*
2500 " BROWN SHEETINGS, at 12 1-2 cts. per yard.
1300 " Do. Do. at 15 cts.
600 " Do. Do. at 18.
1000 " BLEACHED SHEETINGS, from 18. to 22 cts.
1500 " BLEACHED SHIRTINGS, from 12 1-2 to 20 cts.
750 " FACTORY GINGHAMS.
450 " BEDTICKINGS.
50 BLACK LACE VEILS.

Blue, Black, Olive, Claret, Brown & Mixed BROADCLOTHS; CASSIMERES; Ladies' Habit Cloths; Sattinetts; Flannels; Cambrics; Muslins; Linens; Ribbons; Nankin and Canton Crapes; Black Twilled Silks; Italian Silks; Black Figured Silks; Worsted Hosery; Fine assortment Gloves; Dimities; Norwich Crapes; Elegant London Bombazines, &c. &c. &c.

All of which are selling *Rapidly* ☞AT UNUSUAL LOW PRICES.☜

Portland, Sept. 1826. 6w 116

CANAL LOTTERY.

AS the sale of tickets will not warrant the drawing of the 8th class of the CUMBERLAND & OXFORD CANAL LOTTERY on the 13th inst. it is necessarily postponed for a few days. The Managers will shortly fix the day on which the class will positively be drawn. P. VARNUN, N. MITCHELL, } *Managers.*

Sept. 8, 1826.

☞ A few good Chances for PRIZES in the above Lottery, for sale at the *Oxford Bookstore.* Sept. 21.

NOTICE!

HEREBY GIVEN—The Anniversary of the *Tyrocinic Adelphi Society*, will be celebrated on the eleventh day of OCTOBER next. Exercises to commence at half past ten A. M. precisely. Oration to be pronounced by *William Ladd*, Esq. of Minot.

Per order of the President.

GEORGE C. WHITNEY,
Secretary of T. A. Society.

*116

NOTICE.

THE subscribers, a Committee appointed by the inhabitants of Hebron, to contract for making the Road from John Lovejoy's to Pigeon Hill, in said town, give notice, that they are ready to receive proposals for making said road, of any part thereof, as may best suit those who may wish to contract.

Any who are desirous of contracting are invited to examine the ground and submit their proposals to either of said Committee on or before Tuesday the third day of OCTOBER next, at which time the making of said Road will be put up at Auction, at the old School-house in District No. Six, in said town, at one o'clock P. M. unless previously contracted for. The extent of the Road to be made is about four miles and thirty rods, crossing the Little Androscoggin River, over which a Bridge is to be built.

CYRUS SHAW,
STEPHEN MYRICK,
ISAAC WHITTEMORE, Jr.

Hebron, Sept. 15, 1826. 2w 116

Handkerchiefs & Thread.

JUST received and for sale—BLACK SILK *HANDKERCHIEFS*—at 42 cents each.

Also—Boxes good *THREAD*—at 1 ¢ each. ASA BARTON, *Agent.*

Sept 21.

THE BOWER.

[From the Recorder and Telegraph.]

JEPTHAHS DAUGHTER.

She stood before her father's gorgeous tent,
To listen for his coming. Her loose hair
Was resting on her shoulders, like a cloud
Floating around a statue, and the wind,
Just swaying her light robe, reveal'd a shape
Praxiteles might worship. She had clasp'd
Her hands upon her bosom, and had raised
Her beautiful, dark, Jewish eyes to Heaven,
Till the long lashes laid upon her brow.
Her lip was slightly parted, like the cleft
Of a pomegranate blossom, and her neck,
Just where the cheek was meeting to its curve,
With the unearthly beauty sometimes there
Was shaded, as if light had fallen off,
Its surface was so polished. She was quelling
Her light, quick breath, to hear; and the white rose
Scarce mov'd upon her bosom, as it swell'd
Like nothing but a lovely dream of light,
To meet the arching of her queenly neck.
Her countenance was radiant with love,—
She look'd a thing to die for it. A being
Whose whole existence was the pouring out
Of rich and deep affections. I have thought
A brother's and a sister's love was much.
I know a brother's is—for I have been
A sister's idol; and I know how broke
The heart may be with its own tenderness—
But the affection of a delicate child
For a fond father, gushing as it does
With the sweet springs of life, and pouring on
Through all earth's changes like a principle
Chasten'd with reverence, and made more pure
By the world's discipline of light and shade—
It must be holier.

The wind bore on
The leaden tramp of thousands. Clarion notes
Rang sharply on the ear at intervals;
And the low, mingled din of mighty hosts
Returning from the battle, pour'd from far,
Like the deep murmur of a restless sea.
They came, as earthly conquerors always come,
With blood and splendor, revelry and wo.
The stately horse treads proudly—he hath trod
The brow of death, as well. The chariot wheels
Of warriors roll magnificently on—
Their weight hath crush'd the fallen. *Man* is there—
Majestic, lordly man—with his sublime
And elevated brow, and godlike frame;
Lifting his crest in triumph—for his heel
Hath trod the dying like a wine-press down!
The mighty Jepthah led his warriors on
Thro' Mizeph's streets. His helm was proudly set;
And his stern lip curl'd lightly, as if praise
Were not for the hero's scorn. His step was firm,
But free as India's leopard; and his mail,
Whose shekels none in Israel might bear,
Was like a cedar's tassel on his frame,
His crest was Judah's kingliest. And the look
Of his dark, lofty eye, and bended brow,
Might quell the lion. He led on; but thoughts
Seem'd gathering round which troubled him. The veins
Grew visible upon his swarthy brow,
And his proud lip was press'd as if with pain.
He trod less firmly; and his restless eye
Glanced forward frequently, as if some ill
He dar'd not meet, were there. His home was near;
And men were thronging with that strange delight
They have in human passions, to observe
The struggle of his feelings with his pride.
He gaz'd intensely forward. The tall firs
Before his tent were motionless. The leaves
Of sweet aloe, and the clustering vines
Which half concealed his threshold, met his eye
Unchang'd and beautiful; and one by one,
The balsam with its sweet-distilling stems,
And the Circassian rose, and all the crowd
Of silent and familiar things, stole up
Like the recovered passages of dreams.
He strode on rapidly. A moment more,
And he had reach'd his home; when lo! there sprang
One with a bounding footstep, and a brow
Of light, to meet him. O how beautiful!
Her dark eye flashing like a sun-lit gem—
And her luxuriant hair!—'t was like the sweep
Of a soft wing in visions. He stood still,
As if the sight had wither'd him. She threw
Her arms about his neck—he heeded not.
She call'd him "Father"—but he answered not.
She stood and gaz'd upon him. Was he wroth?
There was no anger in that blood-shot eye.
Had sickness seized him? She unclasp'd his helm,
And laid her white hand gently on his brow,
And the large veins felt stiff and hard like cords.
The touch arous'd him. He raised up his hands
And spoke the name of God, in agony.
She knew that he was stricken, then; and rush'd
Again into his arms; and with a flood
Of tears she could not bridle, sobb'd a prayer
That he would tell her of his wretchedness.
He told her—and a momentary flush
Shot o'er her countenance; and then the soul
Of Jepthah's daughter wakened; and she stood
Calmly and nobly up, and said 't was well—
And she would die. * * *
* * * * The sun had well nigh set.
The fire was on the altar; and the priest
Of the high God was there. A wasted man
Was stretching out his wither'd hands to Heav'n
As if he would have pray'd, but had no words—
And she who was to die, the calmest one
In Israel at that hour, stood up alone
And waited for the sun to set. Her face
Was pale, but very beautiful; her lip
Had a more delicate outline, and the tint
Was deeper; but her countenance was like
The majesty of Angels.

The sun set—
And she was dead—but not by violence.

ROE.

EPIGRAM.

On a Long Nose.

Heavens! what a nose! Forbear to look,
Whene'er you drink, in fount or brook;
For, as the fair Narcissus died
When hanging o'er a fountain's side,
You too, the limpid waters quaffing,
May die, my worthy sir, with laughing.

THE OLIO.

[From the Edinburgh Review.]

Wanderings in South America, the Northwest of the United States, and the Antilles, in the years 1812, 1816, 1820, and 1824, by CHARLES WATERTON, Esq. London, Mawman.

Mr. Waterton complains, that the trees of Guiana are not more than six yards in circumference,—a magnitude in trees which it is not easy for a Scotch imagination to reach. Among these, pre-eminent in height, rises the mora—upon whose top branches, when naked by age, or dried by accident, is perched the Toucan, too high for the gun of the fowler;—around this are the green heart, famous for hardness; the tough hackea; the ducalabali, surpassing mahogany; the ebony and letter wood, exceeding the most beautiful woods of the Old World; the locust tree, yielding copal; and the hayawa and olou trees, furnishing sweet smelling resin. Upon the top of the mora grows the fig tree. The bush-rope joins tree and tree, so as to render the forest impervious, as, descending from on high, it takes root as soon as its extremity touches the ground, and appears like shrouds and stays supporting the mainmast of a line of battle ship.

Demerara yields to no country in the world in her birds. The mud is flaming with the scarlet curlew. At sunset, the pelicans return from the sea to the courada trees. Among the flowers are the humming birds. The columbine, gallinaceous, and passerine tribes people the fruit trees. At the close of day, the vampires, or winged bats, suck the blood of the traveller, and cool him by the flap of their wings. Nor has Nature forgotten to amuse herself here in the composition of snakes:—the Camoudi has been killed from thirty to forty feet long; he does not act by venom, but by size and convolution. The Spaniards affirm that he grows to the length of eighty feet, and that he will swallow a bull; but Spaniards love the superlative. There is a *whipsnake* of a beautiful green. The Labarri snake of a dirty brown, who kills you in a few minutes. Every lovely color under heaven is lavished upon the counachouchi, the most venomous of reptiles, and known by the name of the *bush-master*. Man and beast, says Mr. Waterton, fly before him, and allow him to pursue an undisputed path.

We consider the following description of the various sounds in these wild regions as very striking, and done with very considerable powers of style.

"He whose eye can distinguish the various beauties of uncultivated nature, and whose ear is not shut to the wild sounds in the woods, will be delighted in passing up the river Demerara. Every now and then, the maam or tinamou sends forth one long and plaintive whistle from the depth of the forest, and then stops; whilst the yelping of the toucan, and the shrill voice of the bird called Pi-pi-yo, is heard during the interval. The campanero never fails to attract the attention of the passenger; at a distance of nearly three miles, you may hear this snow-white bird tolling every four or five minutes, like the distant convent bell. From six to nine in the morning, the forests resound with the mingled cries and strains of the feathered race; after this, they gradually die away. From eleven to three, all nature is hushed as in a midnight silence, and scarce a note is heard, saving that of the campanero and the pi-pi-yo; it is then that, oppressed by the solar heat, the birds retire to the thickest shade, and wait for the refreshing cool of evening.

"At sundown the vampires, bats, and goat-suckers dart from their lonely retreat, and skim along the trees on the river's bank. The different kinds of frogs almost stun the ear with their hoarse and hollow sounding croaking, while the owls and goat-suckers lament and mourn all night long.

"About two hours before day-break, you will hear the red monkey, moaning as though in deep distress; the houtou, a solitary bird, and only found in the thickest recesses of the forest, distinctively articulates, 'houtou, houtou,' in a low and plaintive tone, an hour before sunrise; the maam whistles about the same hour; the hannaquoi, pataca, and maroudi announce his near approach to the eastern horizon, and the parrots and paroquets confirm his arrival there."

The description of the birds is very animated and interesting; but how far does the gentle reader imagine the campanero may be heard, whose size is that of a jay? Perhaps 300 yards. Poor innocent, ignorant reader! unconscious of what nature has done in the forests of Cayenne, and measuring the force of tropical intonation by the sounds of a Scotch duck! The campanero may be heard three miles!—this single little bird being more powerful than the belfry of a cathedral, ringing for a new dean—just appointed on account of shabby politics, small understanding, and good family!

"The fifth species is the celebrated campanero of the Spaniards, called Dara by the Indians, and bell-bird by the English. He is about the size of a jay. His plumage is as white as snow. On his forehead rises a spiral tube, nearly three inches long. It is jet black dotted all over with small white feathers. It has a communication with the palate, and when filled with air, looks like a spire; when empty, it becomes pendulous. His note is loud and clear, like the sound of a bell, and may be heard at the distance of three miles. In the midst of these extensive wilds generally on the dried top of an aged mora, almost out of gun reach, you will see the campanero. No sound or song from any of the winged inhabitants of the forest, not even the clearly pronounced 'Whip-poor-will,' from the goat-sucker, cause such astonishment, as the toll of the campanero.

"With many of the feathered race, he pays the common tribute of a morning and an evening song; and even when the meridian sun has shut in silence the mouths of almost the whole of animated nature, the campanero still cheers the forest. You hear his toll, and then a pause for a minute, then another toll, and then a pause again, and then a toll, and again a pause."

Strings of ants may be observed, says our good traveller, a mile long, each carrying in its mouth a green leaf, the size of a sixpence! he does not say whether this is a loyal procession, like Oak Appleday, or for what purpose these leaves are carried; but it appears while they are carrying the leaves, that three sorts of ant-bears are busy in eating them. The habits of the largest of these three animals are curious, and to us new. We recommend the account to the attention of the reader.

"He is chiefly found in the inmost recesses of the forest, and seems partial to the low and swampy parts near creeks, where the Troely tree grows. There he goes up and down in quest of Ants, of which there is never the least scarcity; so that he soon obtains a sufficient supply of food, with very little trouble. He cannot travel fast; man is superior to him in speed. Without swiftness to enable him to escape from his enemies, without teeth, the possession of which would assist him in self-defence, and without the power of burrowing in the ground, by which he might conceal himself from his pursuers, he still is capable of ranging through these wilds in perfect safety; nor does he fear the fatal pressure of the serpent's fold, or the teeth of the famishing Jaguar. Nature has formed his fore legs wonderfully thick, and strong, and muscular, and armed his feet with three tremendous sharp and crooked claws. Whenever he seizes an animal with these formidable weapons, he hugs it close to his body, and keeps it there till it dies through pressure, or through want of food. Nor does the Ant-bear, in the mean time, suffer much from loss of aliment, and it is a well known fact, that he can go longer without food than perhaps any other animal, except the land tortoise. His skin is of a texture that perfectly resists the bite of a dog; his hinder parts are protected by thick and shaggy hair, while his immense tail is large enough to cover his whole body."

Insects are the curse of tropical climates. The bete-rouge lays the foundation of a tremendous ulcer. In a moment you are covered with ticks. Chigoes bury themselves in your flesh, and hatch a large colony of young chigoes in a few hours. They will not live together, but every chigoe sets up a separate ulcer, and has his own private portion of pus. Flies get entry into your mouth, into your eyes, into your nose; you eat flies, drink flies, and breathe flies. Lizards, cockroaches, and snakes get into the bed; ants eat up the books; scorpions sting you on the foot. Every thing bites, stings, or bruises; every second of your existence you are wounded by some piece of animal life that nobody has ever seen before, except Swammerdam and Meriam. An insect with eleven legs is swimming in your teacup, a nondescript with nine wings is struggling in the small beer, or a caterpillar with several dozen eyes in his belly, is hastening over the bread and butter!—All nature is alive, and seems to be gathering all her entomological hosts to eat you up, as you are standing, out of your coat, waistcoat, and breeches. Such are the tropics. All this reconciles us to our dews, fogs, vapors, and drizzles—to our apothecaries rushing about with gargles and tinctures—to our old, British, Constitutional coughs, sore throats, and swelled faces.

[From the New-York Enquirer.]

MINT JULEPS, &c. Our remarks on the propriety of erecting an asylum for drunkards have met with a very general approbation, and been most extensively republished in the other Journals of the Union. An appeal to the moral sense of the public will rarely be made in vain. We feel disposed therefore to follow up those remarks with some others of a less general application and of a more delicate nature. Intemperance, the besetting vice of our country, is not confined to the low and vulgar merely. It is, no doubt, a low and vulgar vice, but the high, the educated, and the accomplished orders of society are not altogether uncontaminated by its influence. It is amongst them that its most melancholy triumphs are obtained. It is there that we have its path marked by a deeper impress and a wider desolation. We shall perhaps startle the quiet and moral portion of our citizens when we assert that habits of intemperance are growing upon the educated youth of this metropolis to a fearful extent. The evidences are not indeed to be found in any disgusting exhibitions of intoxication in the streets. If the evil assumed that shape, it might be more easily eradicated. No; it is to be detected in the general practice of tippling in bar rooms at all hours of the day, without any regard to appearance or any apprehension of results. Young men of the best families in this city may be found so indulging themselves. The practice is so general as to pass without notice. Brandy and water—mint-juleps—wine-bitters, &c. &c. are the daily (and sometimes hourly) indulgencies of too numerous and too respectable a class of our young men. In England, when two persons meet, the first salutation is—"a fine day," or "an unpleasant day." In France, "a pinch of snuff." In New-York, "what will you have to drink?" At first the practice may be harmless—but like all other sensual gratifications, "it makes the meat it feeds on," and insensibly generates a fixed and most pernicious habit.

To see half a dozen youths of family, fortune and high expectations, crowding round a tavern bar, in the broad day, reckless of observation and consequences, is a sad prospect, and not to be met with in any country in the world besides our own. The taste is soon vitiated—the health effected—all delicacy of sentiment (the only true moral preservative) destroyed—business gradually neglected—low intimacies contracted—character tainted—till at last the unhappy victims of this foolish and fatal propensity, are irremediably ruined. This is not speculation. It is not a mere fanciful sketch. Our city can number but too many terrible examples of its literal truth. More than one respectable family will bear reluctant testimony to the ravages of this vile practice. Who can walk our streets without occasionally meeting some bloated and broken countenance—marked with the sad traces of unnatural disease? Ask who and what these poor creatures are, and you will be but too frequently told—that they were born in a fair station, and educated with the brightest hopes, but that station and those hopes, the affection of their families, and the respect of the public, have all been sacrificed to the poor, ungentlemanly and degrading habit of intemperate indulgence. It is the source of every other social offence. It is the great fountain which deluges the gaming-room and the brothel with their pestilent population. But how is the affliction to be mitigated? The suppression of tippling-houses and diminuation of licenses may be serviceable to the morals of the "small vulgar"—but the "great vulgar" are not to be checked by any such restraints. Nothing but a broad and public stamp of moral reprobation can affect them. Parents, guardians, tutors, masters, are called upon to visit the lapses of those committed to their care with the most earnest admonition or the severest censure.

Let them point out *by name* the many and memorable instances of degradation and ruin which have happened in this city. A young man just beginning to drink his *julepe* and *bitters* must look, not to his own companions, but to those who have had a few years the start of him, for proofs of the effect which these sensualities produce. If he has the good sense to profit by the experience of others, it is fortunate; if not, it is only some happy interposition which can save him.

DARBY AND THE TUG-PIN.

"*Dear Darby, what's life without a friend?*"
MICHAEL MILESIAN.

As Darby Croney was perambulating Water-street one misty morning in search of work and a dram, he saw at a distance his friend Michael Fowler in seeming difficulty with Jenny his high-blooded plodder—high in bone, I should rather say, than in flesh or blood. "The top of the morning to you, Darby," said Michael, "sure, an'n't I right glad to see you when I'm in trouble, now?"—"Arrah! the top of the morning *to you*, Michael: Pray what the divil ails yourself and Jeanie? are you stuck in a bog?"—"Nothing at all, me friend," said Michael, "only I have lost one of me tug-pins out of me cart, and as I have never a knife to make another, I can't carry the load."—"Sure, won't I help you now?" said Darby. After searching about in vain for some time to obtain a remedy for the lost pin, Darby could think of no better substitute than one of his fingers, which he proffered the use of, to his friend Michael. "Sure, now, isn't a friend in need a friend indeed?" Darby flattered by his friend's observation thrust his finger without hesitation into the hole. "Now touch Jeanie aisy," said Darby, "or you may hurt me finger." But Michael well knew that Jenny was rather bashful about moving, and that a light touch with his whip with a heavy load, would be tender mercy thrown away, so he gave her a severe lash. Off started Jenny at double quick time in high dudgeon. "Murder, blood and murder! oh, I have lost me finger! me finger!" cried Darby in the utmost agony. "Lost it! sure now you haven't lost it at all," said Michael, (with perfect sang froid,) "for here it is, under me cart, man!"

NEW BOOKS!

JUST received and for sale at the *Oxford Bookstore*—Worcester's Gazetteer, 2 vols. octavo, latest edition; Morse's Universal Geography, 2 vols. octavo; Abernethey's Surgical and Physiological Works; Good's Study of Medicine; Johnson on the Liver; Bichat's Anatomy; Thomas's Practice; Medical Chemistry, &c.

Also—The Rambler, by Johnson; Montgomery's, Cowper's, Campbell's and Hogg's Poems.

Likewise—The Instrumental Director, new edition; Drum and Fife Instructer, new edition. *Sept.* 14.

SCHOOL.

THERE is a *SCHOOL* to be open next MONDAY, Sept. 4th, at *Poland Corner*, in which will be taught all the Branches usually taught in our Academies—By Jabez C. Woodman. Terms as liberal as at any Academy in the State. *Aug.* 31, 1826.

MILITARY.

FOR sale at the *Oxford Bookstore*, Scott's Militia Tactics;

Also—1 pair good Epaulets.

—LIKEWISE—

Legers for Debt and Credit on the same page—Day Books—Record Books, &c.—Sponge—India Rubber—Lead Pencils—Drawing Paper, &c. *Sept.* 7.

NOTICE

IS hereby given to all persons indebted to MORSE & HALL, by Note or Account, of more than Eight Months standing, are requested to make payment to them previous to the first of November next, or they will be left with an Attorney for collection.

Paris, Aug. 11, 1826. 11w 111

ASA BARTON, *AGENT*,

HAS just received and offers for sale—Young Hyson Tea at $1—Souchong at 62 1-2 cts.—Coffee at 20 cts.—Tobacco at 20 cts. per pound,—Raisins—Spices—Pepper—Ginger—Copperas—Alum—Blue Vitriol—Starch, &c.—all which are of the first quality.

Also—Sheetings at 1s.—Shirtings at 12 1-2 cts. per yard—Satinetts—Checks—Stripes—Yarns—Threads, &c.

Likewise—A good assortment of Calicoes; Cambrics; Muslins; Laces; Edgings; Insertings; Frills; Ruffs; Pipeings; Cords; Braids; Gimps; Ribbons; Mantles; Shawls; Grape Dresses, &c.—☞*to be sold Cheap.*☜

Sept. 21.

To the Honorable Legislature of the State of Maine.

WE the undersigned, your Petitioners, Inhabitants of Dixfield, beg leave to represent, that it would greatly benefit and accommodate the towns of Dixfield and Mexico, by setting off from the town of Dixfield and annexing to the town of Mexico, all that part of said Dixfield south and west of the following described line, to wit; beginning at Canton line between the fourth and fifth Range, thence running westerly on said Range line to lot line between fourteen and fifteen, thence northerly on said lot line to Plantation No. 4; and we would beg leave further to represent, that the towns of Dixfield and Mexico have, by a very large majority, voted what your Petitioners now ask; We therefore petition your Honors to set off and annex the aforesaid part of Dixfield to said town of Mexico, and as in duty bound will ever pray.

JOHN MARBLE, JUN.
and 75 others.

A true Copy:
Attest, NATH'L LOW, *Sec'y of the Senate.*

STATE OF MAINE.

In Senate, February 2d, 1826.

ON the Petition aforesaid, ORDERED, That the Petitioners cause an attested Copy of their Petition, with this Order thereon, to be published in the "*Oxford Observer*," a Paper printed in Paris, three weeks successively, the last publication to be sixty days, at least, before the first Wednesday of the first session of the next Legislature, that all persons interested, may then appear and shew cause, (if any they have,) why the prayer of said Petition should not be granted.

Sent down for concurrence.

JONAS WHEELER, *President.*

In the House of Representatives, Feb. 2d, 1826.

Read and concurred.

JOHN RUGGLES, *Speaker.*

A true Copy:
Attest, NATH'L LOW, *Sec'y of the Senate.*

North American Review.

THE subscriber having been appointed Agent for this deservedly popular work, will receive the names of all such persons as wish for it, in this County. This work is published quarterly, and makes two octavo volumes, of about 450 pages each, at the low price of five dollars per annum.

ASA BARTON.

Paris, Aug. 31.

BOOKS AT A DISCOUNT.

JUST received and for sale at the *Oxford Bookstore*—Walker's Pocket Dictionary; Scottish Chiefs; Children of the Abbey; Thaddeus of Warsaw; The Quakers, a Tale Rasselas; Bancroft's Life of Washington; Red Gauntlet; Hogg's Poems; Cowper's Poems, &c. ☞*which will be sold at a great Discount.*☜ *Aug.* 31.

SHERIFF'S NOTICE.

OXFORD, ss.

PURSUANT to Warrants from ELIAS THOMAS, Esq. Treasurer of the State of Maine, to me directed, against the following townships of unimproved Land, situated in the County of Oxford, for the following State Tax, for the year of our LORD eighteen hundred and twenty five, viz:

	$	c
Township No. 2, Second Range,	5	87
" No. 2, letter A,	7	26

I hereby give notice that unless said Taxes and all intervening charges are previously paid, so much of the Townships of Land will be sold at Public Auction, at the Court-House, in Paris, on MONDAY, the twenty third day of OCTOBER next, at ten o'clock in the forenoon, as will be necessary to pay the same respectively.

WILLIAM C. WHITNEY, *Sheriff of Oxford County.*

Hebron, Aug. 26, A. D. 1826. 6w 113

SCOTT'S FAMILY BIBLE.

FOR SALE at the *Oxford Bookstore* SCOTT'S FAMILY BIBLE, Stereotype edition, six volumes, handsomely bound—*Cheap.*

Also—FAME and FANCY, a new and popular work, 2 vols.

Grammar of Astronomy—Easy Lessons in Geography, &c. &c. *Sept.* 14.

NOTICE.

WHEREAS my Mother, *SUSANNAH BROCK*, has left my house, where I have made suitable provision for her support, and made application to the Overseers of the town for assistance—This is to forbid all persons furnishing her on my account, as I shall pay no debts of her contracting after this date. JOHN BROCK.

Buckfield, Sept. 6, 1826. 11*

FOR SALE at the OXFORD BOOKSTORE, BROWN'S DROPS for Fits. This medicine has been the means of effecting several cures in this distressing disorder.

Also—La Grange's celebrated OINTMENT for the cure of *Scald Head*, and other *Cutaneous* disorders. *Aug.* 31.

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